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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/829,985	04/11/2001	Takashi Kinoshita	Q63469	8913

7590

06/19/2003

## LAW OFFICES

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EXAMINER

CHANG, VICTOR S

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 06/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/829,985

Applicant(s)

KINOSHITA ET AL

Examiner

Victor S Chang

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133)
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on 19 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) 1,4-13 and 15-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1,4-13 and 15-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper Note(s) 4

5) ☐ Other

### DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Rejections not maintained are withdrawn.

#### ***Claim Rejections - 35 USC § 112***

3. Claims 1 and 4-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is noted that the many claims in their present form are replete with vague and indefinite phrases, rendering the claims incomprehensible. For example:

In newly amended claim 1, the structural relations between the layers is still vague and indefinite. At line 2, the Examiner suggests to change “, on both sides of layer A comprising” to “--on each side of layer A a layer B, said layer A comprising an--,” and also insert “--and said--” before “layer B”. Similar changes are also suggested for claims 13, 17 and 18.

In claim 13, line 7, the Examiner suggests delete “directly”, as it appears to be redundant. Similar change is also suggested for claims 15, 17 and 18.

In claim 17, line 1, the phrase “by rolling” is vague and indefinite, i.e., it is not clear to the Examiner what is the scope of “by rolling”.

In claim 17, line 4, the Examiner suggests to change "comprising" to --which comprises an--. Also, at line 5, insert --a-- before "layer B". Additionally, at line 8, delete "directly".

In claim 18, line 5, the Examiner suggests to change "comprising" to --which comprises an--. Also, at line 6, insert --a-- before "layer B". Additionally, at line 9, delete "directly".

#### ***Response to Amendment***

4. Claims 1, 4-13 and 15-18 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Yamaoka et al. (US 5616420).

Yamaoka's patent is directed to a laminate film or sheet which is excellent in drop impact strength, heat sealability, hygienic qualities and flexibility (column 1, lines 3-5). Yamaoka teaches that the laminate can be used as substrates, i.e., backings, for adhesive tapes (column 1, lines 49-54). Yamaoka teaches that the laminate film has at least three layers, the three layers being (A) an intermediate layer and (B) two outer layers, the intermediate layer (A) being composed of a resin composition comprising 20 to 100% by weight of an amorphous polyolefin containing at least 50% by weight of a propylene and/or butene-1 and 80 to 0% by weight of a crystalline polypropylene, and the two outer layers (B) being composed of a resin composition comprising a polyolefin and a thermoplastic styrene elastomer (column 1, line 63 to column 2, line 4). Yamaoka

also teaches that the laminate film may be embossed on one side or both sides (column 8, lines 31-33).

For claims 1, 4-5, 10, 13, 15 and 17, it is noted that Yamaoka does not expressly teach that one of the outer layer comprises polypropylene-based resin, and the other outer as a blend of propylene and a thermoplastic elastomer. However, Yamaoka does teach that it is known that a three-layer laminate film comprising an intermediate layer of an amorphous polyolefin and two outer layers of crystalline polypropylene, and such three-layer films are suitably usable for medical applications, etc. (column 1, lines 31-37). Yamaoka also teaches that the resin composition comprising a polyolefin and a thermoplastic styrene elastomer improves the drop impact strength, flexibility, etc. (column 1, lines 45-47), i.e., the thermoplastic styrene elastomer inherently improves the softness and elasticity. Further, it is known that the requisite of a base film for medical adhesive tapes is softness and elasticity, so as to be gentle to the skin, as evidenced by the teaching of the state of the art of Arakawa et al. (US 5264281, column 1, lines 36-39). As such, forming a medical adhesive tape by modifying the polypropylene outer layer of the prior known art on the side which is next to the skin (i.e., also next to the adhesive layer) with a thermoplastic elastomer is believed to be either inherently disclosed by Yamaoka, or an obvious modification to one of ordinary skill in the art, motivated by the desire to improve the softness and elasticity of the laminate when it is in contact with the skin.

For claim 6, Yamaoka discloses that the resin composition for the layer (A) may optionally contain additives, fillers, etc. Further, other thermoplastic resins, thermoplastic elastomers, rubbers, etc. can be optionally added (column 4, lines 20-27).

For claims 7 and 8, Yamaoka teaches that thermoplastic styrene elastomers for the layer (B) include thermoplastic styrene/diene elastomers (column 5, lines 28-30).

For claim 9, Yamaoka teaches that polyolefins which can be used for the layer (B) are not specifically limited and include copolymers of ethylene and propylene, and modified products of ethylene resins can be used, as is the case with layer (A) (column 4, lines 38-58), which include propylene/ethylene random copolymer (column 3, lines 57-59).

For claims 11, 12 and 16, Yamaoka teaches that the layer thickness is not specifically limited and can be optionally selected. Usually the overall thickness of the laminate film is in the range of about 15 to about 1,500  $\mu\text{m}$ , while the thickness of each layer is in the range of about 2 to about 1,000  $\mu\text{m}$ . Further, the thickness proportions of the layers (A) and (B) are not critical (column 7, lines 14-20). As such, it would have been an obvious optimization to one skilled in the art to modify the thickness of each layer in Yamaoka's laminate film based on the specific end use.

For claim 18, it is believed that forming a medical adhesive tape with a liquid-absorbing pad disposed in a center region of a pressure sensitive adhesive is old and well known, as evidenced by the teaching of the state of the art of Tabata et al. (US 5432009, Fig. 4).

Art Unit: 1771

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S Chang whose telephone number is 703-605-4296. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-

Application/Control Number: 09/829,985  
Art Unit: 1771

Page 7

VSC  
June 16, 2003

DANIEL ZIRKER  
PRIMARY EXAMINER  
GROUP ~~1300~~  
1700

*Daniel Zinker*